

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ROCHE DIAGNOSTICS GMBH, *et al.*,

Plaintiffs,

-v-

ENZO BIOCHEM, INC., *et al.*,

Defendants.

USDS SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 3-4-15

No. 04-cv-4046 (RJS)
REVISED SCHEDULING ORDER

RICHARD J. SULLIVAN, District Judge:

In light of the Court's Orders, dated March 4, 2015, one of which resolved the parties' letter briefs dated December 8, 2015, December 17, 2015, and January 30, 2015, and the other of which scheduled a claim construction hearing for April 21, 2015, at 2:00 p.m., the Court hereby adopts the following Revised Scheduling Order for purposes of the parties' remaining patent infringement claims and defenses and Enzo's remaining breach of contract claims and Roche's defenses (together the "Claims and Defenses").

1. All damages *fact* discovery relating to the Claims and Defenses which has not already been completed shall be completed by **April 13, 2015**.
 - a. The parties are to conduct discovery in accordance with the Federal Rules of Civil Procedure and the Local Rules of the Southern District of New York.
 - b. Any additional fact depositions shall be completed by the close of this fact discovery period.
2. Pursuant to the Court's Order, dated March 4, 2015, the parties shall appear for a claim construction hearing relating to U.S. Patent No. 4,943,523 on **April 21, 2015, at 2:00 p.m.** Each party shall have one hour to do with what they wish.
3. All expert discovery and disclosures on all remaining issues, including reports, production of underlying documents, and depositions, shall be completed pursuant to the following deadlines:
 - a. Opening expert reports on issue(s) for which a party bears the burden of proof shall be served within 30 days of the Court's claim construction ruling relating to U.S. Patent No. 4,943,523 (the "Claim Construction Ruling").
 - b. Rebuttal expert reports shall be served within 60 days of the Claim Construction Ruling.

- c. Expert depositions shall be completed within 90 days of the Claim Construction Ruling.
- 4. All discovery shall be completed no later than 90 days after the Claim Construction Ruling.
- 5. After the issuance of the Claim Construction Ruling, the parties will promptly contact the clerk to set a post-discovery conference following the close of expert discovery.
- 6. If either party contemplates a motion, the post-discovery conference will function as a pre-motion conference. Pre-motion letters are to be submitted in accordance with a schedule set by the Court after it issues the Claim Construction Ruling. Pursuant to Rule 2.A of the Court's Individual Practices, responses to pre-motion letters are to be submitted within three business days from the date of service of the initial pre-motion letter. Pre-motion letters and responses shall be submitted to the Chambers' email address at sullivannysdchambers@nysd.uscourts.gov.
- 7. If neither party contemplates a dispositive motion, the post-discovery conference will function as a pre-trial conference at which a trial date will be set.
- 8. The parties have agreed to have Judge Gorenstein facilitate settlement discussions, and will conduct those discussions in accordance with Judge Gorenstein's December 2, 2014 Order or any subsequent orders of Judge Gorenstein or this Court. Additionally, the settlement conference, which had been scheduled for February 13, 2015 at 10:00 a.m., which was adjourned *sine die*, shall be rescheduled forthwith.

SO ORDERED.

DATED: March 4, 2015
New York, New York



RICHARD J. SULLIVAN
UNITED STATES DISTRICT JUDGE